

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3565 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KANTUBHA SATUBHA (UNARMED)

Versus

T D PATEL, DIST. SUPDT. OF POLICE, JAMNAGAR

Appearance:

MR SR BRAHMBHATT for Petitioner

None present for Respondents No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/07/97

ORAL JUDGEMENT

1. Heard the learned counsel for the petitioner and perused the Special Civil Application.

2. The petitioner has been appointed as a Police Constable w.e.f. 9-12-1980 after he has been selected by the Selection Committee. His services came to be terminated under the order dated 19th August, 1982 which has been communicated to the petitioner on 23rd August,

1982. It was taken to be a case of discharge of the probationer from services.

3. The petitioner having apprehension of the termination of his services, filed a civil suit in the Court of Civil Judge, Jamnagar, but that suit was withdrawn by him as by that time the order of termination had not been made and the respondents had given out to the Civil Court that his services shall be terminated in accordance with law and after holding an inquiry. However, under the impugned order his services were terminated. The petitioner this time filed Special Civil Application No.3857/82 before this Court. The Special Civil Application has been decided on 15th October, 1982 and it had been withdrawn by the petitioner as the respondents had given out that if the petitioner makes a revision application to the State Government within a fortnight from that date, it will be duly considered and decided in about five weeks thereafter by a speaking order. The petitioner filed revision application before the State Government, which came to be dismissed under the order dated 21st January, 1983. Hence, this Special Civil Application.

4. The counsel for the petitioner, Shri S.R. Brahmbhatt, raised manifold contentions challenging the order of termination of services of the petitioner as well as the State Government in the revision, but I do not consider it necessary to go on all the questions, as in my view, the matter deserves to be sent back to the Government (revisional authority) to decide the matter afresh. Reading of the order of the revisional authority gives out that the three criminal cases which had been filed against the petitioner heavily prevailed with the said authority. The counsel for the petitioner contended and he has produced documents on record, that in all the three cases, the petitioner has been honourably acquitted by the criminal court. This Court while admitting the Special Civil Application granted interim mandatory relief to reinstate the petitioner on his original post as per Para No.27(C) and the petitioner is in service for all these years. So, even if it is taken to be a case of discharge of probationer from the services, the fact remains that for all these years after termination of the services i.e. for more than fourteen years the petitioner is working on the post coupled with the fact that in all the three criminal cases he has been acquitted, the matter has to be considered - whether he should be continued in service or he should be chuck out. The conduct of the petitioner after he has been continued in service under the mandatory interim relief granted by

this Court is also to be looked into and if his work is satisfactory and his service record is also not adverse then a lenient approach has to be taken in such matters.

5. So, taking into consideration the totality of the facts of the case, the order of the revisional authority dated 21st January, 1983, is quashed and set aside, and the matter is sent back to the revisional authority to decide the matter afresh after taking into consideration the subsequent developments and the events which have taken place, namely, that the petitioner has been acquitted in the three criminal cases and the petitioner is working for all these years on the post under the mandatory interim relief granted by this Court, and as such, his service record for all these years would be available for considering his case for continuation in service. The interim relief which has been granted by this Court shall remain in force till the revision application is decided by the revisional authority. It is further made clear that in case the revisional authority decides to maintain the order of termination of service of the petitioner dated 19th August, 1982, then interim relief granted by this Court shall remain in force for one month from the date of receipt of the order of the revisional authority by the petitioner. In that case, the revisional authority is expected to pass a reasoned order and to send a copy of same to the petitioner by registered post A.D.. The Special Civil Application and Rule stands disposed of in the aforesaid terms with no order as to costs.

zgs/-